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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DENISE BELLEGIA,**
14 **a.k.a. DENISE MARIE LUCKER**
15 **4126 East Addington Dr.**
16 **Anaheim, CA 92807**

17 **Registered Nurse License No. 457484**

Respondent.

Case No. 2010-174

OAH No.

A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Louise R. Bailey, M.Ed., RN, ("Complainant") brings this Accusation
21 solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about August 31, 1990, the Board issued Registered Nurse License Number
24 457484 to Denise Bellegia, also known as Denise Marie Lucker ("Respondent"). Respondent's
25 registered nurse license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on February 28, 2010, unless renewed.

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1 nurse who is terminated for any reason, other than successful completion, shall be
2 reported to the board's enforcement program.

3 (b) If the program manager determines that a registered nurse, who is denied
4 admission into the program or terminated from the program, presents a threat to
5 the public or his or her own health and safety, the program manager shall report
6 the name and license number, along with a copy of all diversion records for that
7 registered nurse, to the board's enforcement program. The board may use any of
8 the records it receives under this subdivision in any disciplinary proceeding.

9 8. Code section 4060 states:

10 No person shall possess any controlled substance, except that furnished to
11 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
12 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
13 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
14 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
15 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
16 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
17 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
18 shall not apply to the possession of any controlled substance by a manufacturer,
19 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
20 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
21 physician assistant, when in stock in containers correctly labeled with the name and
22 address of the supplier or producer. Nothing in this section authorizes a certified
23 nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to
24 order his or her own stock of dangerous drugs and devices.

25 9. Code section 4324, subdivision (a), states:

26 Every person who signs the name of another, or of a fictitious person, or
27 falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine,
28 any prescription for any drugs is guilty of forgery and upon conviction thereof shall
be punished by imprisonment in the state prison, or by imprisonment in the county
jail for not more than one year.

10. Health and Safety Code section 11170 states that no person shall prescribe,
administer, or furnish a controlled substance for himself.

11. Health and Safety Code section 11173 states, in pertinent part:

(a) No person shall obtain or attempt to obtain controlled substances, or
procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Board may request the
administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **CONTROLLED SUBSTANCE AT ISSUE**

4 13. "Lortab", a combination drug containing hydrocodone bitartrate and acetaminophen,
5 is a Schedule III controlled substance as designated by Health and Safety Code section 11056,
6 subdivision (e)(4).

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Diversion, Possession, Prescription, and**
9 **Self-Administration of Controlled Substances)**

10 14. Respondent is subject to disciplinary action pursuant to Code section 2761,
11 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
12 subdivision (a), in that on or about December 23, 2002, while employed as a registered nurse at
13 the University of California, Irvine, Medical Center, located in Orange, California, Respondent
14 did the following:

15 **Diversion of Controlled Substances:**

16 a. Respondent obtained the controlled substance, Lortab, by fraud, deceit,
17 misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173,
18 subdivision (a), as follows: Respondent took a prescription slip that had previously been signed
19 by Dr. H. and had been issued for 100 tablets of Lortab 10 mg with 5 refills, wrote her name on
20 the slip to obtain the Lortab for herself, without Dr. H.'s knowledge or authorization (Dr. H. was
21 on vacation at the time of the incident), and had the prescription filled at Walgreens Pharmacy
22 located in Placentia, California.

23 **Possession of Controlled Substances:**

24 b. Respondent possessed 100 tablets of the controlled substance, Lortab, as set forth in
25 subparagraph (a) above, without a valid prescription from a physician, dentist, podiatrist,
26 optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060.

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1 **Prescription of Controlled Substances:**

2 c. Respondent prescribed the controlled substance, Lortab, for herself, as set forth in
3 subparagraph (a) above.

4 **Self-Furnishing of Controlled Substances:**

5 d. Respondent furnished Lortab to herself without lawful authority therefor.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Use of Controlled Substances to an Extent or in a Manner**
8 **Dangerous or Injurious to Oneself and/or Others)**

9 15. Respondent is subject to disciplinary action pursuant to Code section 2761,
10 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
11 subdivision (b), in that while licensed as a registered nurse, Respondent used controlled
12 substances, including, but not limited to, Lortab, to an extent or in a manner dangerous or
13 injurious to herself and/or others, as follows: Respondent used and abused prescription drugs and
14 controlled substances to deal with pain and other issues. Following the incident described in
15 subparagraph 14 (a) above, Respondent "self-referred" to the Board's diversion program
16 (hereinafter "diversion"; Respondent participated in diversion from 2003 until July 2007). In or
17 about May 2006, Respondent notified diversion staff that she had been recently hospitalized and
18 was on prescription narcotics. Diversion staff told Respondent that she was not allowed to work.
19 Respondent continued to use narcotics to help with her pain so that she could return to work.
20 Respondent was required to undergo periodic drug testing as part of her diversion. Respondent
21 submitted her daughter's urine as her own in order to pass the urinalysis tests administered
22 through diversion. Respondent was eventually terminated from diversion due to her failure to
23 comply with the provisions of the rehabilitation plan.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Registered Nursing issue a decision:

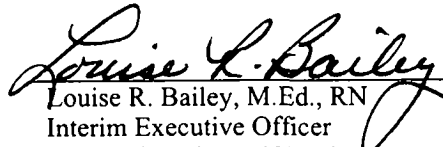
27 1. Revoking or suspending Registered Nurse License Number 457484, issued to
28 Denise Bellegia, also known as Denise Marie Lucker;

1 2. Ordering Denise Bellegia, also known as Denise Marie Lucker, to pay the Board of
2 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

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6 DATED: _____

9/24/09


Louise R. Bailey, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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